IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION

MARY E. MOWRY,	
Plaintiff,)
v. ORACLE AMERICA, INC., a corporation,) C/A No. 3:19-cv-00123-FDW-DCK
Defendant.	Ś

<u>DEFENDANT'S MOTION TO COMPEL ARBITRATION</u> <u>AND STAY PROCEEDINGS</u>

COMES NOW Defendant Oracle America, Inc. ("Defendant"), by and through undersigned counsel, and hereby moves this Court pursuant to the Federal Arbitration Act, 9 U.S.C. § 1, et seq., to: (1) compel arbitration of Plaintiff Mary Mowry's claims under the Family Medical Leave Act of 1993, 29 U.S.C. § 2601 et seq. ("FMLA"), and the Age Discrimination in Employment Act, as amended, 29 U.S.C. § 621 et seq. ("ADEA"); and (2) stay this proceeding pending arbitration. In support of its motion, Defendant submits a memorandum of law and the Declaration of Dawn Capriotti, to which Plaintiff's offer letter, the parties' Employment Agreement & Mutual Agreement to Arbitrate (the "Agreement"), and proof of Plaintiff's acknowledgment and acceptance of the Agreement are attached as Exhibits.

WHEREFORE, Defendant respectfully requests that its motion be granted, that Plaintiff's FMLA and ADEA claims be ordered to arbitration in accordance with parties' mutually binding arbitration agreement, and that this proceeding be stayed pending arbitration.

Dated this the 26th day of March, 2019.

Respectfully submitted,

/s/H. Bernard Tisdale III
H. Bernard Tisdale III, NC #23980
Carl M. Short III, NC 46396
Attorneys for Defendant
OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.
201 South College Street, Suite 2300
Charlotte, NC 28244
Telephone: 704-342-2588

Facsimile: 704-342-4379

Email: bernard.tisdale@ogletree.com;

Carl.short@ogletree.com

CERTIFICATE OF SERVICE

I, H. Bernard Tisdale III, hereby certify that I have this day electronically filed the foregoing **DEFENDANT'S MOTION TO COMPEL ARBITRATION** with the Clerk of Court using the CM/ECF system, which will send notification of the filing to the following person(s):

Kathleen M. Lucas
Alisha Shamim Meyer
The Lucas Law Firm
354 Pine Street, 4th Floor
San Francisco, CA 94104
Email: klucas@lucaslaw.net
asmeyer@lucaslaw.net

Joshua Reed Van Kampen Nicole Katherine Haynes Van Kampen Law 225 East Worthington Street Suite 200 Charlotte, NC 28203 704-247-3245 Fax: 704-749-2638

Email: josh@vankampenlaw.com nicole@vankampenlaw.com

Attorneys for Plaintiff

Dated this the 26th day of March, 2019.

/s/H. Bernard Tisdale III

H. Bernard Tisdale III, NC #23980

Attorney for Defendant

OGLETREE, DEAKINS, NASH,

SMOAK & STEWART, P.C.

201 South College Street, Suite 2300

Charlotte, NC 28244

Telephone: 704-342-2588 Facsimile: 704-342-4379

Email: bernard.tisdale@ogletree.com